

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

KERRI JENKS,

Plaintiff,

v.

Case No.CV-15-1079

GEICO INSURANCE COMPANY,

NOTICE OF REMOVAL

Defendant Government Employees Insurance Company, (hereinafter "Defendant") incorrectly named as GEICO Insurance Company, by and through its counsel of record, Chapman and Charlebois, P.C., (Donna L. Chapman and Jessica C. Singer), hereby files this Notice of Removal pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, and in support thereof, states as follows:

1. Plaintiff Kerri Jenks ("Plaintiff") filed her Complaint for Personal Injury, Breach of Contract, Breach of Duty of Good Faith, and for Violation of Insurance Practices Act ("Complaint") in the Eleventh Judicial District, San Juan County, State of New Mexico, in Cause No. D-1116-CV-2015-01136 (hereinafter "State Court Action") on October 15, 2015. (See Plaintiff's Complaint, attached hereto as Exhibit A).
2. In her Complaint, Plaintiff alleges she was injured in the State of New Mexico. (*Id.* at ¶ 1).
3. Plaintiff named Defendant GEICO, as a Defendant in Plaintiff's Complaint.
4. Defendant asserts GEICO is incorporated and its principal place of business is in the state of Maryland.
5. Plaintiff named Amy Trainowski as a Defendant in Plaintiff's Complaint.

6. Defendant GEICO asserts that Defendant Amy Trainowski is no longer an employee of Defendant GEICO, but that when she was, Defendant Trainowski was a resident of Texas.

7. Diversity of citizenship is present in this matter as set forth in 28 U.S.C. § 1332(a) and 28 U.S.C. § 1441(b)(2).

6. Defendant accepted service through the Superintendent of Insurance on October 26, 2015. (See Exhibit B).

7. Less than thirty (30) days have passed since Defendant accepted service of the initial pleadings on this matter.

8. As Defendant has accepted service and was the employer of Amy Trainowski at the time of the alleged incidents, 28 U.S.C. § 1446(b)(2)(A) is satisfied. (See Register of Actions for the State Court Action, hereto attached as Exhibit C).

9. Pursuant to Plaintiff's allegations, the amount in controversy exceeds \$75,000, as set forth in 28 U.S.C. §§ 1441(b)(2).

10. Pursuant to the attached documentation from Plaintiffs' counsel, dated March 9, 2015, the amount in controversy exceeds the jurisdictional amount of \$75,000. See also, *Hanna v. Miller*, 163 F.Supp. 2d 1302, 1305-06 (D.N.M. 2001).

11. This case may be removed to this Court by Defendant pursuant to the provisions of 28 U.S.C. §§ 1441(b) and 1446.

12. By and through this Notice of Removal, Defendant removes all claims asserted against it on the basis of diversity jurisdiction, which is conferred upon this Court pursuant to 28 U.S.C. §§ 1332 and 1441.

13. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal is being concurrently served upon the Plaintiff on this date.
14. Pursuant to 28 U.S.C. § 1446(d), Defendant is concurrently filing a Notice of Filing of Removal in the State Court Action, a copy of which is hereto attached as Exhibit D.
15. In addition to the Notice of Filing Notice of Removal in the State Court Action, Defendant is concurrently filing an Entry of Appearance in the State Court Action on this date, a copy of which is hereto attached as Exhibit E.
16. Pursuant to 28 U.S.C. § 1446(a) and D.N.M.LR-Civ. 81.1(a), all process, pleadings, and orders from the State Court Action will be filed with this Court in a separate Transmittal of State Court Record within twenty-eight days (28) of this Notice.
17. A Civil Cover Sheet for this Court is hereto attached as Exhibit F.

WHEREFORE, the removing Defendant gives notice the above-styled action, which was pending in the Eleventh Judicial District, San Juan County, State of New Mexico, as Cause No. D-1116-CV-2015-01136 is removed to this Court.

Respectfully submitted,

CHAPMAN AND CHARLEBOIS, P.C.

/s/ Jessica C. Singer, Attorney at Law
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I HEREBY CERTIFY that on the 25th day of November, 2015, I filed the foregoing electronically through the CM/ECF system, which caused the following counsel of record to be served by electronic means, as more fully reflected on the Notice of Electronic Filing to the following counsel of record:

Michael Huffaker
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Attorney for Plaintiff

/s/ Jessica C. Singer, Attorney at Law
Jessica C. Singer